



C.M.A(MD)No.997 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A(MD)No.997 of 2009

P.Abdul Wahith

... Appellant

Vs

1.Ponnammal

2.Minor.Kabasthinia

3.The Branch Manager,
The Oriental Insurance Company,
2nd Floor, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

4.The Branch Manager,
The United India Insurance Company Ltd.,
5, Balaji Complex,
Gomathiyapuram,
1st New Street,
Sankarankovil.

(2nd Minor respondent represented through
her mother and guardian 1st respondent)

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, to set aside the judgment and decree in



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M.C.O.P.No.4 of 2005 on the file of the Motor Accident Claims Tribunal
(Subordinate Judge), Sanakarankovil dated 17.04.2009.

For Appellant : Mr.J.Jeyakumaran
For R1, R2 & R4 : No appearance
For R3 : Mr.C.Jawahar Ravindran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award, dated 17.04.2009, made in M.C.O.P.No.4 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Sanakarankovil.

2. The case of the claimant, in nutshell, is as follows:

On 07.07.2004 at about 05.15 a.m., a Maruthi Van bearing registration No.TN-22-F-3296 driven by its driver in a minimum speed towards south to north on the left extreme of Kadyanallur Main Road. At that time, on opposite direction, one Mini lorry bearing registration



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No.TN-67-V-8454 driven by its driver in a rash and negligent manner came and dashed against the Maruthi Van. In the impact, the Maruthi Van totally damaged. The respondents 1 and 2 are the owner of the Mini Lorry. The third respondent/Oriental Insurance Company is the Insurer of the said vehicle. Hence, alleging that the accident had happened due to the rash and negligent driving of the driver of the Mini Lorry, the appellant filed a claim petition claiming compensation of Rs.1,00,000/-.

3.The owner of the lorry remained absent before the Tribunal and therefore, they were set *ex parte*. The Oriental Insurance Company contested the claim petition on all the grounds available to them.

4.Before the Tribunal, on the side of the appellant/claimant, 10 witnesses were examined as P.W.1 and P.W.10 and 32 documents were marked as Exs.P1 to P.32. On the side of the third respondent/Insurance Company, no witness was examined and no document was marked.

5.The Tribunal, after considering the materials available on record dismissed the claim petition. Aggrieved over the same, the present appeal has been filed by the claimant.



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6. It is the main contention of the learned counsel appearing for the appellant/claimant that the appellant is the owner of the damaged Maruthi Van. The said van was damaged by the Mini Lorry. Hence, the appellant claimed compensation of Rs.1,00,000/- for the damages. He further submitted that to prove the loss, the appellant has produced Ex.31-service estimate issued by the service company. Further, the Motor Vehicle Inspector has also opined that the accident was not due to any mechanical defect. However, without considering the same, the Tribunal has wrongly dismissed the claim petition filed by the appellant. Aggrieved over the same, the present appeal has been filed by the appellant/claimant.

7.Heard the learned counsel appearing for the third respondent/Insurance Company and perused materials available on record.

8.In this case, the appellant has produced Ex.P.31-Service Estimate, to prove the expenses incurred by him. This is not bills and it is only service estimate. Without producing the bill, he cannot claim such



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compensation amount. Further, the appellant has not filed any valid document to prove his contention. Hence, this Court finds no reason to interfere with the order passed by the Tribunal and this appeal is liable to be dismissed.

9.In the result, this Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 17.04.2009 passed in MCOP No.4 of 2005, on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Sankarankovil, is confirmed. No costs.

13.09.2022

Index :Yes/No
Internet :Yes/No
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To

1.The Motor Accident Claims Tribunal (Subordinate Judge),
Sankarankovil.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN,J.

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JUDGMENT MADE IN
C.M.A(MD)No.997 of 2009

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